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**Human rights situation in Palestine and other
occupied Arab territories**

Written statement* submitted by the Al-Haq, Law in the Service of Man, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 August 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



The Impact of Israeli Impunity

1. In June 2017, Palestinians marked five decades of Israeli occupation in the West Bank, including East Jerusalem, and the Gaza Strip. In the past two months, no practical changes to end the occupation have taken place. The international community has remained silent as Israel continues its unlawful practices against the Palestinian people in the Occupied Palestinian Territory (OPT), including through excessive use of force leading to killings, punitive home demolitions, residency revocations, and the withholding of bodies of deceased Palestinians. These practices have all escalated since October 2015,¹ and have led to the killing of 296 Palestinians in the OPT, many as a direct result of Israel's use of excessive and lethal force even when not strictly necessary or proportional.² Since October 2015, Israel has also withheld the bodies of 161 deceased Palestinians, obstructing potential investigations into their killings and delaying the return of their remains to their families for a dignified burial.³ As of 16 August 2017, 11 bodies of Palestinians remain in Israeli custody despite international calls on Israel to end this practice as one that amounts to unlawful collective punishment in violation of international humanitarian law.⁴

i. Excessive use of force and killings

2. Excessive use of force, a staple of Israel's occupation for the past fifty years, has been particularly prevalent in recent Israeli practices in the OPT. Since October 2015, Israel's shoot-to-kill policy has been used against Palestinians during attacks and alleged attacks, where suspects may have been controlled using non-lethal means and in cases where Palestinians posed no threat at all.⁵

3. Approximately one year ago, the IOF killed Mustafa Nimer, first claiming that Mustafa was a passenger in a car committing a car ramming. After witness and video footage emerged that this was not the case, the IOF admitted the killing was a mistake.⁶ However, the member of the IOF who shot him has not been prosecuted. Instead, Mustafa's relative who had been driving the car was reportedly charged with negligent homicide and subsequently signed a plea deal – likely so that he would not face the biased Israeli judicial system and a higher sentence.⁷ In March 2017, Seham Nimer, Mustafa's mother, raised a pair of scissors before the IOF in occupied East Jerusalem and was shot and killed.⁸ Individuals that knew her told Al-Haq she had been depressed after her son's killing. In one year, the Nimer family was destroyed by the Israeli occupation. Another year has also passed where Israel's policies and practices persisted without accountability.

4. In July 2017, Al-Haq documented numerous cases in which Palestinians were killed by the IOF during demonstrations, clashes, and raids across the OPT.⁹ In one incident that took place on 12 July, the IOF raided Jenin refugee camp and killed Sa'd Salah, 21, and Aws Salama, 17. No clashes had been taking place where they were shot and killed, the IOF had issued no warning signs before shooting them, neither of them seemed to have been armed, nor did they attack the IOF. Moreover, the illegal exploding bullets used by the IOF to shoot Sa'd and Aws indicated an

1 This includes five Palestinians with Israeli or Jordanian citizenships killed by the IOF in occupied East Jerusalem.

2 <http://www.alhaq.org/documentation/field-updates-2015/989-special-focus-holding-the-bodies-of-deceased-palestinians-by-israel>

3 A/71/352, paragraphs 46-48.

4 A/HRC/34/36, paragraph 31; A/71/364, paragraph 25.

5 <http://www.alhaq.org/documentation/weekly-focuses/1028-from-killing-to-burial-questions-left-unanswered>.

6 <http://www.alhaq.org/documentation/weekly-focuses/1072-qmistakenq-killings-iof-kill-palestinian-civilians-mustafa-nimer-and-iyad-hamed-despite-posing-no-threat-or-danger-to-anyone>

7 <http://www.haaretz.com/israel-news/1.780230>

8 <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/1115-the-killing-of-seham-nimer-how-the-israeli-occupation-destroys-palestinian-families->

9 <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/1134-increase-in-palestinians-killed-by-israeli-occupation-forces-in-july-2017>

intention to inflict severe pain and suffering on them.¹⁰ Their killing in this brutal manner appears to amount to an arbitrary killing; accordingly, there must be a prompt, effective, and independent investigation into these killings by Israeli authorities.

5. Another case of excessive force involves that of Abdel Rahman Abu Hamisa, 17, who was shot and killed by the IOF near Gaza's perimeter fence on 28 July 2017. Abdel Rahman was participating in protests in Gaza on restrictions at Al-Aqsa during the month of July. According to OHCHR, the practice of the IOF along the perimeter fence "indicates that they often use firearms against Palestinians on mere suspicion or as a precautionary measure, in violation of international standards."¹¹

ii. Withholding the bodies of deceased Palestinians

6. Israeli authorities have increasingly delayed the return of Palestinians' remains to their families with punitive intent.¹² The decades-long practice has previously been used by Israel as a means of collective punishment and as a method to deter Palestinians from carrying out attacks.¹³ Since October 2015, Israel has withheld the bodies of 161 Palestinians,¹⁴ with 11 of these remaining in Israeli custody as of 16 August 2017. Upon releasing the bodies, Israel often imposes conditions on families ranging from limitations on the number of funeral attendees to requiring immediate burial once the body is handed over.

7. As a result of this practice, families have begun to take extreme measures to ensure that the IOF does not seize the bodies of their loved ones. In occupied East Jerusalem, three bodies were smuggled out of hospitals and medical centers on 21 July 2017 by their families and friends, the same day that the individuals were killed.¹⁵ The young Palestinians had been participating in protests against restrictions imposed on entry into Al-Aqsa, which were violently dispersed and turned into clashes. It appears that none of the young men had posed a threat to the IOF or others at the time of their killing. In one case, the IOF raided Al-Makassed Hospital and beat the hospital's medical staff in an apparent attempt to seize the body of Mohammad Abu-Ghannam.

8. The Israeli Supreme Court recently affirmed that the withholding of the bodies of three men from Umm Al-Fahem by the Israeli Police had no legal basis under Israeli law (HCJ 5887/17), and that "[i]n the case at hand, there are a number of fundamental rights at stake, first and foremost human dignity". While it ordered that the three Palestinian citizens of Israel be returned to their families, Israeli authorities continue to withhold the bodies of 11 Palestinians from the OPT, five of whom have been withheld for more than ten months.

9. Withholding the bodies of deceased Palestinians for prolonged periods not only obstructs any investigation into their killings, potentially concealing evidence of unlawful killings, but also significantly adds to the grief, anxiety, and trauma of families mourning their loss.¹⁶ In June 2016, the Committee against Torture recommended that Israel "return the bodies of the Palestinians [...] to their relatives as soon as possible so they can be buried in accordance with their traditions and religious customs, and to avoid that similar situations are repeated in the future."¹⁷ One member of the Committee argued that the practice "constituted a form of post-mortem torture."¹⁸

10 Al-Haq Affidavit No. 427/2017 taken on 12 July 2017 from Muhammad Sa'id Abdel Aziz Younes, a resident of Allar, Tulkarm Governorate. Al-Haq Affidavit No. 428/2017 taken on 12 July 2017 from Kamal Imad Muhammad Awad, a resident of Jenin refugee camp, Jenin Governorate.

11 A/HRC/34/36, paragraph 11.

12 A/71/364, 30 paragraph 25.

13 <http://www.alhaq.org/documentation/field-updates-2015/989-special-focus-holding-the-bodies-of-deceased-palestinians-by-israel>

14 A/HRC/34/36, paragraph 31. A/71/364, paragraph 25.

15 This was the case of Muhammad Abu Ghannam, Mohammad Sharaf, and Mohammad Lafi.

16 <https://www.adalah.org/en/content/view/8765>

17 CAT/C/ISR/CO/5, paragraph 43.

18 CAT/C/SR.1416, paragraph 83.

10. The withholding of bodies is solely meant as collective punishment for the families of alleged attackers, in violation of Article 33 of the Fourth Geneva Convention.¹⁹ This was affirmed by the UN Secretary-General, who condemned the practice as amounting to unlawful collective punishment and violating the prohibition on torture and ill-treatment.²⁰

11. In total, Israel's policies and practices aimed at controlling and instilling fear in the Palestinian population continue due to the international community's failure to hold Israel accountable. As a result, we continue to see innocent lives lost and families destroyed by the occupation. As the occupation and Israeli violations of international law continue unabated, we urge the Human Rights Council and its Member States to:

- i. Pressure Israel to conduct effective, prompt, and independent investigations into the killings of all Palestinians by the IOF or Israeli settlers, and where appropriate, prosecute individuals responsible;
- ii. Demand that Israel end its practice of withholding the bodies of Palestinians, as well as all other measures of collective punishment against the protected Palestinian population, including punitive home demolitions, punitive residency revocations, and movement restrictions; and
- iii. Take effective action to end Israeli impunity, including by fully cooperating with the International Criminal Court's Office of the Prosecutor during its preliminary examination on Palestine.

¹⁹ A/HRC/34/36, paragraph 31.

²⁰ A/71/364, paragraph 25.